

REMARKS

The Examiner objected to claim 36 citing lack of antecedent basis for "the selection" and "the group". Claim 36 has been amended and it is believed that the Examiner's objections are now overcome.

The Examiner rejected claims 1-3, 6, 8-10, 13, 15-17, 36-37, 39, and 41-43 on the grounds of obviousness-type double patenting. The Applicant does not agree with the Examiner's assertions, particularly those related to the teachings in U.S. Patent No. 5,768,079 to Buell. However, in the interest of speedy prosecution, a Terminal Disclaimer is attached to this Response. It is therefore believed that the obviousness-type double patenting rejections are now overcome.

The Examiner rejected claims 1-3, 6, 8-10, 13, 15-17, 19, 36-37, 39, and 41-43 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 5,768,079 to Buell. For at least the reasons set forth below, Applicant traverses this rejection.

As a preliminary matter, independent claims 1, 8 and 15 have been amended to improve the readability of the claims and more clearly present the claimed invention. Specifically, the term "feature," has now been replaced with "variable". This amendment does not modify the scope of claims 1, 8 and 15.

In the rejection of claims 1 and 15, the Examiner alleges that the passage in column 3, lines 19-27 and 47-60; column 4, lines 17-67 thru column 5, lines 1-21 shows the step of "determining a present condition of the at least one associated variable". The cited passages, however, do not teach or suggest determining the present condition of at least one of the time of day, day of week or month of year as required by claims 1 and 15. The cited passages merely disclose a method for detecting fault conditions that does not in any way determine the present condition of at least one of the time of day (ex. 5:00 p.m.), the day of week (ex. Tuesday) or the month of year (ex. September). The cited passages teach determining a ground current vector (hereinafter GCV), which reflects the relative balance or imbalance between the three single phase current vectors. Col. 3, Ln. 63-67. The GCV is compared to a ground offset vector (hereinafter GOV) and if the difference is greater than a ground minimum trip value (hereinafter GMT) the controller identifies a potential overcurrent fault condition. (Col. 5, Ln. 15-19). The GOV continuously tracks the value of the GCV and adjusts in accordance therewith. Col. 4, Ln. 18-25. In other words, the GOV is a running average, that will generally increase or decrease depending on recent electricity

usage. Buell *does not* teach determining the time of day, day of week or month of year.

The Examiner states that he, "interprets the load currents, single-phase and three-phase as the present conditions *due to the daily and/or seasonal fluctuations*. Claims 1 and 15 do not state, "determining a present condition *due to* the at least one associated variable." Claim 1 and 15 clearly state, "determining a present condition of the at least one associated variable," and the associated variable "comprises at least one of the time of day, day of week and month of year." No such teaching is found in Buell and thus claims 1 and 15 are distinguished therefrom.

Regarding the remaining limitations of claims 1 and 15, Buell cannot, for example, teach "determining a behavior function for the recloser based on the protection setting group and the present condition," because no present condition of the time of day (ex. 5:00 p.m.), day of week (ex. Tuesday), or month of year (ex. September) is determined in the teachings of Buell.

Regarding claims 6, 13 and 19, the Examiner asserts that Buell discloses that the behavior function comprises one of fuse saving mode and fuse clearing mode. While Buell does disclose a reclosing procedure adapted to limit fuse melting (Col. 6, Ln. 51-68), Buell does not disclose determining a fuse saving mode or a fuse clearing mode *based on the protection setting group and the present condition* as required by claim 6, 13 and 19 when read as a whole, including the limitations of the base independent claims. In fact, Buell only discloses that the reclosing intervals are "preset" and are not adaptively determined at all. Col. 6, Ln. 58-60. For these reasons, in addition to those already discussed above, it is believed that claims 6, 13 and 19 are in condition for allowance.

Claim 8 was amended to incorporate some of the limitations of original claim 9. In rejecting claims 8, and 9 the Examiner cited Column 1, Lines 50-60; Column 7, lines 35-47; and Column 8, lines 1-24. The Applicant incorporates the comments above related to claims 1 and 15. The additional text cited by the Examiner simply does not teach or suggest a recloser controller that monitors a present condition of the associated variable (ie. time of day, day of week, or month of year) and selects the behavior function based on the present condition. The Applicant invites the Examiner to point to a specific teaching in Buell wherein the time of day, day of week or month of the year is monitored and wherein a behavior function is determined based on the time of day, day of week or month of year.

Regarding claim 36 the Examiner simply referred to the rejection of claim 8. The above discussion relating to independent claims 1, 8 and 15 are therefore reasserted. To reiterate, Buell does not teach the selection of a control scheme is based on time of day, day of week, or month of year.

Regarding the rejection of claims 2, 3, 10, 16, 17, 37, 39, 42 and 43, the additional cited passages in Buell do not rectify the deficiencies of the underlying rejection of the base independent claims. Thus, it is believed that claims 2, 3, 10, 16, 17, 37, 39, 42 and 43 are also in condition for allowance.

The Examiner further rejected claims 38 and 40 under 35 U.S.C. §103 as being unpatentable over Buell. The additional cited passages and/or discussion do not rectify the deficiencies of the underlying base independent claim.

For at least the reasons set forth above, Applicant submits that the Buell patent fails to teach or suggest independent claims 1, 8, 15 and 36 and the claims depending therefrom.

Based on the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 050877.

Respectfully submitted,

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